

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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GUSTAVO SARAIVIA and RONALD CUCELO, on behalf of  
themselves and all other persons similarly situated

12-CV-7310

Plaintiffs

(PAC) (GWG)

-against-

2799 BROADWAY GROCERY LLC d/b/a CASCABEL  
TAQUERIA, 301 EAST 80<sup>th</sup> GROCERY LLC d/b/a/  
CASCABEL TAQUERIA and/or any other entities  
affiliated with , controlling or controlled by  
2799 BROADWAY GROCERY LLC d/b/a CASCABEL  
TAQUERIA, 301 EAST 80<sup>th</sup> GROCERY LLC d/b/a/  
CASCABEL TAQUERIA and/or DAVID CHIONG,  
ELIZABETH GAUDREAU, individually

DECLARATION OF  
ANNMARIE P. VENUTI  
IN OPPOSITION TO  
PLAINTIFFS' MOTION  
FOR CONDITIONAL  
CLASS CERTIFICATION

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ANNMARIE P. VENUTI, being an attorney duly admitted to practice law in the Southern District of New York, hereby affirms under the penalties of perjury that:

1. I am a member of the firm of Annmarie P. Venuti PLLC, attorneys for Defendants and am fully familiar with the facts and circumstances surrounding this matter. I submit this Declaration in Opposition to Plaintiffs' motion for Conditional Class Certification and Notice to the Class pursuant to 29 U.S.C. §216(b).
2. Annexed hereto as Exhibit "A" is a true and accurate copy of the Declaration of David Chiong.
3. Annexed hereto as Exhibit "B" are true and accurate copies of text messages between Named Plaintiff Gustavo Saravia and David Chiong re termination.
4. Annexed hereto as Exhibit "C" are true and accurate copies of text messages between Named Plaintiff Gustavo Saravia and David Chiong re schedule changes
5. Annexed hereto as Exhibit "D" is a true and complete copy of Named Plaintiff Ronald Cucolo's Employee Gross to Net Report.
6. Annexed as Exhibit "E" are true and accurate copies of text messages between Opt-In Plaintiff Jason Belcher to Dan Monson.
7. Annexed as Exhibit "F" are true and complete copies of text messages between Opt-In Plaintiff Jason Belcher to David Chiong.

8. Annexed as Exhibit "G" are true and complete text messages between Opt-In Plaintiff Jennifer Spaulding and Dan Monson.

9. Annexed hereto as Exhibit "H" is a true and complete copy of Defendants' Handbook.

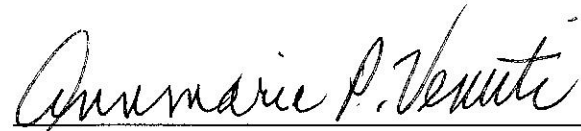
10. Annexed as Exhibit "I" is Jennifer Spaulding's acknowledgment of understanding Handbook.

11. Annexed hereto as Exhibit "J" is a true and complete copy of Opt-In Plaintiff Ariadne Emmanuel's New York State Unemployment Insurance file.

12. On May 3, 2012 by e-mail I advised Defendants' counsel that I did not oppose their motion for conditional class certification but did oppose their notices concerning retaliation. I suggested we entered into a stipulation but Defendants' counsel refused.

WHEREFORE, Defendants request that this Court deny Plaintiffs' request for a "Court Sponsored" notice and for such further relief as this Court deems just and proper.

Dated: New Fairfield, CT  
May 6, 2013

  
Annmarie P. Venuti, Esq.